

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FOREST CREEK, LLC)	
)	
COMPLAINANT)	
V.)	CASE NO.
)	2011-00297
JESSAMINE-SOUTH ELKHORN WATER)	
DISTRICT)	
)	
DEFENDANT)	

ORDER TO SATISFY OR ANSWER

Jessamine-South Elkhorn Water District ("Jessamine-South") is hereby notified that it has been named as defendant in a formal complaint filed on August 5, 2011, a copy of which is attached hereto.

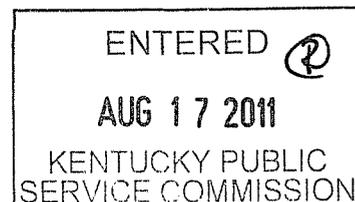
Pursuant to 807 KAR 5:001, Section 12, Jessamine-South is HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within ten days of the date of service of this Order.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

By the Commission

ATTEST:


Executive Director



COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

AUG 05 2011

PUBLIC SERVICE
COMMISSION

In the matter of:

FOREST CREEK, LLC

COMPLAINANT

vs.

JESSAMINE- SOUTH ELKHORN WATER DISTRICT

DEFENDANT

Case No. 2011-00297

COMPLAINT OF FOREST CREEK, LLC FILE PURSUANT TO KRS 278.260

Comes Forest Creek, LLC (“Forest Creek”), by counsel, and for its Complaint against the Jessamine - South Elkhorn Water District (“Water District”), states as follows:

- 1 Pursuant to KRS 278.260 (1) the Kentucky Public Service Commission (“Commission”) has original jurisdiction over complaints as to rates and service provided by utilities in Kentucky, including complaints arising out of unreasonable, insufficient or unjustly discriminatory regulation, measurement, practices or acts affecting or relating to the service of the utility or any service, or complaints that any service is inadequate or cannot be obtained, and the Commission shall proceed to make such investigation as it deems necessary or convenient.
2. Forest Creek owns approximately 458.60 acres located off of Murphy’s Lane and Harrodsburg Road/US 68 in Jessamine County, Kentucky, that is within the service territory of the Water District, and Forest Creek is developing this property (the “Development”).

3. The Water District is a utility within the meaning of KRS 278.010.
4. On or about April 27, 2007, Forest Creek submitted to the Water District a request for extension requesting the Water District to provide potable water to its development.
5. The Water District's policy provides that a water line extension may be provided to Forest Creek's Development under Option I or Option II. Option I provides that the:

District shall construct such extension under authority and procedure as stipulated in Public Service Commission regulation 807 KAR 5:066E, Section 12. Any extension made under this option shall be subject to refund as outlined in said regulation.

Option II provides that:

Applicant may construct and donate to District, the extension, as a contribution in aid of construction, meeting all District's specifications and approval. District reserves right to stipulate applicable engineering, legal and administrative factors. Applicant shall pay all costs of District as a contribution in aid of construction. Any extension made under this Option shall not be eligible for refund.

The Water District's policy further provides that "the applicant. . . shall have the right to elect the option by which said extension shall be made. In either case Applicant must execute a contract and agreement for line extensions of form approved by District."

6. On or about April 27, 2007, Forest Creek completed certain Water District forms provided to it indicating that Forest Creek requested the Water District to provide potable water to its Development under the Option II procedure.
7. Since April 27, 2007, Forest Creek has worked diligently to comply with the requirements of the Option II procedure, and has complied with its requirements.

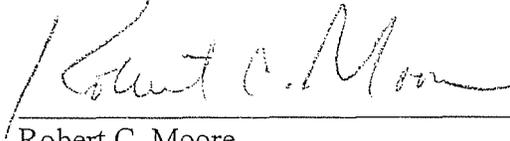
However, the Water District has arbitrarily and capriciously prohibited Forest Creek from obtaining an extension to provide potable water to its development.
8. Because the Water District arbitrarily and capriciously refused to allow Forest Creek to obtain water through Option II, in December, 2010, Forest Creek notified the Water

District that it wished to proceed to obtain water pursuant to Option I. Forest Creek made its determination to proceed under Option I after confirming that the Water District's regulations did not preclude or prohibit it from now seeking water service under Option I instead of Option II.

9. The Water District has arbitrarily and capriciously precluded and prohibited Forest Creek from obtaining water service from the Water District pursuant to Option I. Instead, the Water District has filed a Civil Action in the Jessamine Circuit Court styled Jessamine - South Elkhorn Water District vs. Forest Creek, LLC; Jessamine Circuit Court, Civil Action No. 10-CI-01394 requesting the Court to determine whether Forest Creek may proceed under Option I.
10. Forest Creek hereby requests the Commission to exercise its original jurisdiction over this Complaint as to the unreasonable and unjustly discriminatory regulations, measurements, practices or actions taken by the Water District in refusing to provide water service to Forest Creek pursuant to KRS 278.260.
11. Forest Creek further requests the Commission to order the Water District to allow Forest Creek to obtain water service through the Option I procedure, and, pursuant to KRS 278.260 and 278.280, require the Water District to make the reasonable extension necessary to provide water service to Forest Creek, compel the Water District to cease its unreasonable and discriminatory acts and conduct toward Forest Creek, to render the water service to Forest Creek within a reasonable time period, and to obtain the services of an engineer qualified to make this extension through the proper bid process.

Dated: August 5, 2011

Respectfully submitted,

A handwritten signature in cursive script that reads "Robert C. Moore". The signature is written in black ink and is positioned above a horizontal line.

Robert C. Moore

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